

FILED

July 1 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA-09-0522

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ROLAND DEE TIREY,

Defendant and Appellant.

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**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Eileen A. Larkin, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until July 26, 2010 in which to prepare, file, and serve the Appellant's reply brief in the above-entitled matter. This is Appellant's second extension request for the reply brief. Opposing counsel has been contacted concerning this motion and does not object.

Respectfully submitted this 1st day of July, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
139 N. Last Chance Gulch
P.O. Box 200145
Helena, MT 59620-0145

By: *Eileen A. Larkin*
Eileen A. Larkin
Assistant Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Eileen A. Larkin, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as an Assistant Appellate Defender.

2. In my capacity as Assistant Appellate Defender, I have been assigned to handle the above-entitled matter.

3. The Appellant's reply brief was initially due on June 28, 2010. It is currently due on July 12, 2010. This is the second request for an extension of time.

4. I have recently participated as co-counsel in filing the reply brief in *State v. Mullarkey*, DA-09-0516. I am currently working on opening briefs in *State v. Savage*, DA-0083, and *State v. Bullplume*, DA-10-0028 as well as reply briefs in *State v. Larson*, DA- 09-0441 and this matter.

5. I have assisted the Chief Appellate Defender, Ms. Joslyn Hunt, with the filing of writs and with other administrative duties.

6. I will be out of the office from July 6 through July 8, 2010 to attend appellate training with the entire OAD staff. I have a pre-planned trip out of state from July 9 through July 14, 2010.

7. Additional time will be need upon my return in mid-July to finalize the reply brief and allow for my client's input.

8. I will work diligently to complete the matter in the time requested.

9. Opposing counsel has been contacted concerning this motion and does not object.

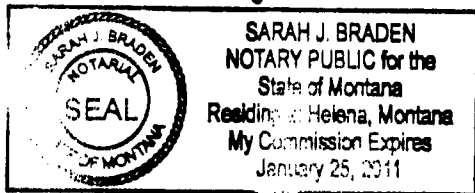
10. Further your affiant sayeth naught.

Eileen A. Larkin

Eileen A. Larkin

SUBSCRIBED AND SWORN to before me this 1ST day of

July, 2010.



Sarah J. Braden

Sarah J. Braden

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

ED CORRIGAN
Flathead County Attorney
Justice Center
P.O. Box 1516
Kalispell, MT 59903-1516

ROLAND TIREY 40574
Montana State Prison
700 Conley Lake Road
Deer Lodge, MT 59722

DATED: 7/1/2010 Sarah J. Brader